



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,941	01/04/2002	Wendell B. Colson	4686/00004	4413

22910 7590 03/03/2006

BANNER & WITCOFF, LTD.
28 STATE STREET
28th FLOOR
BOSTON, MA 02109-9601

EXAMINER

ART UNIT	PAPER NUMBER
----------	--------------

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/869,941

Applicant(s)

COLSON ET AL.

Examiner

Jenna-Leigh Befumo

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 01 February 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.



Jenna-Leigh Befumo

Continuation of 10. Other (including any explanation in support of the above items): The applicant has not followed the proper appeal brief format. The brief does not present the sections in the proper order and is missing various sections such as the Status of Claims and the Status of Amendments sections. Further, the brief no longer should have the Grouping of Claims section. This has been replaced by the Grounds of Rejection section. Additionally, the Grounds of Rejection section should list the rejections and does not need to include the arguments set forth in the advisory action since these have already been made of record. Further, the applicant's arguments do not need to address each claim individually unless the applicant is arguing each claim separately. In which case, the claim needs to be placed under a separate subheading and the applicant must present an additional argument relating to how the dependent claim is further distinguished from the independent claim. Finally, the listing of the claims needs to be placed as an appendix at the end of the appeal brief.